

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NAARON DUNBAR,

Plaintiff,

-against-

8:19-CV-0524 (LEK/CFH)

CHAD PICOTTE, *et al.*,

Defendants.

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**ORDER**

**I. INTRODUCTION**

This matter comes before the Court following a Report-Recommendation filed on May 7, 2019, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 5 (“Report-Recommendation”).

**II. LEGAL STANDARD**

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If objections are timely filed, a court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” § 636(b). However, if no objections are made, a district court need review the report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-857, 2013 WL 1121353, at \*1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008), abrogated on other grounds by *Widomski v. State Univ. of N.Y. at Orange*, 748 F.3d 471 (2d Cir.

2014). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

### III. DISCUSSION

No objections were filed in the allotted time period. Accordingly, the Court has reviewed the Report-Recommendation for clear error and has found none. The Court therefore adopts the Report-Recommendation in its entirety.

### IV. CONCLUSION

Accordingly, it is hereby:

**ORDERED**, that the Report-Recommendation (Dkt. No. 5) is **APPROVED and ADOPTED in its entirety**; and it is further

**ORDERED**, that the following claims are **DISMISSED without prejudice** pursuant to Heck v. Humphrey: false arrest, false imprisonment, malicious prosecution, and violation of due process; and it is further

**ORDERED**, that Plaintiff’s Fourth Amendment excessive force claim **SURVIVES initial review**; and it is further

**ORDERED**, that insofar as Plaintiff seeks to bring claims against Defendants in their official capacities, such claims are **DISMISSED with prejudice**; and it is further

**ORDERED**, that Plaintiff’s claim against Onondaga County is **DISMISSED without prejudice**; and it is further

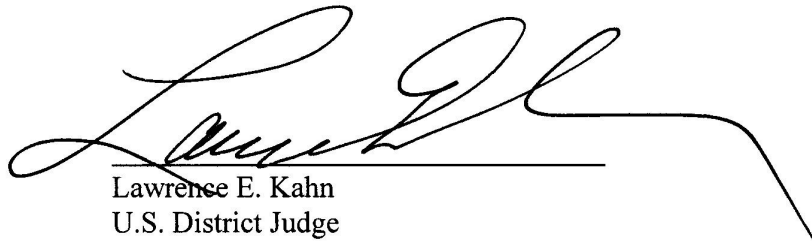
**ORDERED**, that Plaintiff is granted an opportunity to file an amended complaint within thirty days from the date of this Order to assert facts supporting a Monell claim against Onondaga County. If Plaintiff does not file an amended complaint within that thirty-day period,

the Clerk of Court is to return this case to the Magistrate Judge for service of the original complaint and summonses; and it is further

**ORDERED**, that the Clerk of the Court serve a copy of this Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: May 29, 2019  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge